

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
4 State Bar No. 101336  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-752*

13 **GARY LAYNE JENNESS**  
14 **2795 Havasupai Blvd.**  
**Lake Havasu City, AZ 86404**

**A C C U S A T I O N**

15 **Registered Nurse License No. 740715**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Complainant Louise R. Bailey, M.Ed., RN brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing (Board),  
22 Department of Consumer Affairs.

23 2. On or about December 2, 2008, the Board issued Registered Nurse License  
24 Number 740715 (License) to Gary Layne Jenness (Respondent). Respondent has also been  
25 known as Gary Layne Jennes and Gary L. Jenness. The License expired on May 31, 2012, and  
26 has not been renewed.

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1           8.       Section 2762 of the Code states:

2                   In addition to other acts constituting unprofessional conduct within the  
3 meaning of this chapter it is unprofessional conduct for a person licensed under  
4 this chapter to do any of the following:

5                   ....

6                   (b) Use any controlled substance as defined in Division 10 (commencing  
7 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
8 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent  
9 or in a manner dangerous or injurious to himself or herself, any other person, or  
10 the public or to the extent that such use impairs his or her ability to conduct with  
11 safety to the public the practice authorized by his or her license.

12                   ....

### 13                                   **COST RECOVERY**

14           9.       Section 125.3 of the Code provides, in pertinent part, that the Board may request  
15 the administrative law judge to direct a licensee found to have committed a violation or  
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
17 and enforcement of the case.

### 18                                   **DRUG AT ISSUE**

19           10.     Phenobarbital, is a barbiturate, depressant, and Schedule IV controlled substance  
20 as designated by Health and Safety Code, section 11057, subdivision (d)(26). This medication  
21 may impair thinking and reactions, and alcohol can increase some of the side effects.<sup>1</sup>

### 22                                   **CAUSE FOR DISCIPLINE**

#### 23                                   **(Unprofessional Conduct - Use Of Drug In a Dangerous Manner)**

24           11.     Respondent is subject to disciplinary action under Code sections 2761,  
25 subdivision (a), and 2762, subdivision (b), in that he used a controlled substance in a manner  
26 dangerous to himself and the public. The circumstances are as follows:

27           12.     On January 1, 2009, Respondent was driving his vehicle northbound along state  
28 route 86 from his place of work in El Centro to his home in Brawley, California. An off duty  
Brawley Police Department officer who happened to be driving southbound along the same route

<sup>1</sup> <http://www.drugs.com/mtm/phenobarbital.html>

1 observed Respondent driving his vehicle from the first northbound lane, across the center  
2 median, across the southbound lanes, and onto the apex of a dirt berm between the southbound  
3 lanes and an alfalfa field just south of Austin Road junction. Upon contact, Respondent identified  
4 himself to the officer. Respondent was the only person in the vehicle. A police officer soon  
5 arrived and conducted an initial investigation. The officer observed that Respondent was  
6 impaired and disoriented not knowing which direction his car was facing. Respondent thought  
7 that the time was 8 a.m. although it was actually 9:11 a.m. Respondent could not recall what he  
8 did between 5:30 a.m. and 9 a.m.

9 13. Respondent was then transported to the California Highway Patrol Office in El  
10 Centro. An investigating officer noticed Respondent's red and watery eyes, thick and slow  
11 speech, and droopy eyelids. Respondent admitted to taking three 100-milligram phenobarbital  
12 pills and two 110-milligram dilantin pills. Respondent provided a urine sample, which tested  
13 positive for phenobarbital.

#### 14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board of Registered Nursing issue a decision:

17 1. Revoking or suspending Registered Nurse License Number 740715, issued to Gary  
18 Layne Jenness;

19 2. Ordering Gary Layne Jenness to pay the Board of Registered Nursing the reasonable  
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
21 Code section 125.3;

22 3. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: March 13, 2013

*for* Stacie Ben  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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